

PROCEEDINGS OF THE COMMON COUNCIL  
IN REGULAR SESSION  
TUESDAY, OCTOBER 13, 19 92

CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE  
COUNCIL CHAMBERS Tuesday EVENING October 13, 1992  
IN Regular SESSION. PRESIDENT Thomas C. Henry  
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine, AND  
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE  
FOLLOWING MEMBERS 8 VIZ:

BRADBURY <u>✓</u>	EDMONDS <u>✓</u>	GiaQUINTA <u>A</u>
HENRY <u>✓</u>	LONG <u>✓</u>	LUNSEY <u>✓</u>
RAVINE <u>✓</u>	SCHMIDT <u>✓</u>	TALARICO <u>✓</u>

ABSENT: \_\_\_\_\_

COUNCILMEMBER: \_\_\_\_\_

THE MINUTES OF THE LAST REGULAR September 22, 1992.

\_\_\_\_\_, 19  .

SPECIAL \_\_\_\_\_, 19  .

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,  
APPROVED AND PUBLISHED.



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 29, 1992

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. G-92-08-30

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
29th day of September 1992.

Robert Hutner  
Secretary

/pb

CC: File

**FACT SHEET**

G-92-08-30

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Ordinance Amendment

**APPROVAL DEADLINE****REASON****DETAILS****Specific Location and/or Address**

N/A

**Reason for Project**

The proposed amendment to the Zoning Ordinance shall bring all local definitions and regulations into compliance with state and federal law and shall provide for the administration and regulation of Group Homes and Group Residential Facilities.

**Discussion (Including relationship to other Council actions)**

August 17 & September 21, 1992 Public Hearings

See Attached Minutes of Meetings

September 28, 1992 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents****Applicant(s)**

Land Use Management - C&ED  
City Department

Other

**Opponents**

**Groups or Individuals**  
Steve Howell, 2214 Dodge Av  
Dan Miller, 7314 Burnsdale Dr

**Basis of Opposition**  
-the close proximity of the facilities is necessary for cost & operational needs

**Staff  
Recommendation**

☒ For ☐ Against

Reason Against

**Board or  
Commission  
Recommendation****By**

☒ For ☐ Against  
☐ No Action Taken

☐ For with revisions to conditions  
(See Details column for conditions)

**CITY COUNCIL  
ACTIONS  
(For Council  
use only)**

☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass



**DETAILS****POLICY/PROGRAM IMPACT**

<b>Policy or Program Change</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Operational Impact Assessment</b>	

(This space for further discussion)

**Project Start**

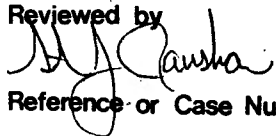
**Date** 3 August 1992

**Projected Completion or Occupancy**

**Date** 29 September 1992

**Fact Sheet Prepared by**  
Patricia Biancaniello

**Date** 29 September 1992

**Reviewed by**  
  
**Reference or Case Number**

**Date**  
29 SEPTEMBER 1992

**Bill No. G-92-08-30 - Ordinance Amendment #523**

**The proposed amendment to the Zoning Ordinance shall bring all local definitions and regulations into compliance with state and federal law and shall provide for the administration and regulation of Group Homes and Group Residential Facilities.**

Mel Smith stated that at the previous public hearing in August the staff and Commission felt that there was not enough time allotted for anyone who was opposed to the petition to speak. He stated that all of the previous testimony given at the first hearing will be made a part of this record and meeting tonight. Mr. Smith asked for testimony from people who did not speak at the previous meeting that had something new to add to the comments previously made.

**THE FOLLOWING IS THE SUMMARIZATION OF THE PREVIOUS TESTIMONY FROM THE AUGUST PUBLIC HEARING**

Greg Purcell, Executive Director, C&ED, appeared before the Commission. Mr. Purcell stated that it has come to the staff attention over the past several months that the current Zoning Ordinance, that regulates and provides for various kinds of group homes, is not in compliance with state statute and with case law with regard to zoning. As a result of this being brought to the staff's attention, they have been working on this and a particular case in West Central Neighborhood has pushed them to move along quickly. He stated that based upon the current Zoning Ordinance we have determined that our ordinance is simply unenforceable as it stands today. He stated that this amendment will delete a number of sections from the Ordinance. He stated that they have consulted with the Plan Commission Attorney, City Attorney, and City Council's Attorney with regard to the amendment. He stated that they have made a determination that there are really only two kinds of facilities that we can deal with under the Zoning Ordinance. One is a facility which is for the mentally ill, which under the Zoning Ordinance you can control, the maximum you can control that is a separation of distance of up to 3,000 feet between facilities. The other type of facility is for the developmentally disabled, and those facilities cannot be restricted so long as there are 8 or fewer residents in such facilities. He stated that they have had meetings with the neighborhood associations in West Central and meetings with providers of various facilities, and he felt that they had come up with a good compromise in terms of what the existing ordinance intent was, what we perceive to be the values and mores of the community of Fort Wayne, and the legal statutes and case law with regard to that. Steve Ranshaw, Wayne O'Brien and Scott Cassingham have been working very hard on this.

Steve Ranshaw, Senior Planner, with C&ED, appeared before the Commission. Mr. Ranshaw stated that this is a difficult question here, because you have to weigh the rights of the neighborhoods and their concerns with the rights of people with special needs to live. He stated that state law, as far as the developmentally disabled and the mentally ill, is relatively clear. He stated that

what the staff has done is take the requirements from state law and put that into City Ordinance and then we know that we are in compliance with at least the state statutes. He stated that there is a definition for mentally ill. He stated that the definition from the state does include alcoholics and people who are recovering from controlled substances. He stated that the definition for the developmentally disabled requires that the disability had to propagate itself before the age of 22 years of age. He stated that the state also goes further and defines how to regulate these facilities. He stated that the developmentally disabled cannot be required to be in any particular district, they are not required to get a special use permit. He stated that as long as they are licensed by the state and as long as there are 8 or less individuals in the facility they are allowed in any district without any special permission. He stated that when defining the mentally ill there is the ability to disperse the facilities for the mentally ill. He stated that is done by making a lineal distance from one facility to the other. He stated that the state statute says the maximum that can be is 3,000 feet. He stated that the measurement would go from each property line. He stated that the staff has done an analysis. He stated that they looked at the size of the city, the number of facilities that would be permitted with each of the different dispersal requirements and they have come up with, what they feel is an appropriate distance between facilities. He stated that distance is 1,000 feet, which is one third of what the state law would allow. He stated it is still more restrictive than what the old ordinance allowed, which stated that you could not have one in the same block face. He stated that there is a third group that does not meet the definition of developmentally disabled or mentally ill. He stated that in the definition section of the ordinance they have created a new facility called a "Group Residential Facility". He stated that this definition was created to try to catch all of those facilities where there is a professional, full time or part time, staff member that is providing special care services. He stated that this could be for battered women or any number of other people with special needs that would not fit under the other two categories. He stated that they have set up a procedure, which would require that a Group Residential Facility be taken before the Board of Zoning Appeals for approval as a contingent use. He stated that they have tried to help the Board of Zoning Appeals and establish a physical criteria for these requests. He stated this has been done so the Board will know exactly what to look at when these facilities come in for approval, and also so the facilities know what kind of arguments they need to make when they go before the Board.

Mel Smith questioned what effect this new ordinance would have on the facilities that are currently in place.

Mr. Ranshaw stated that they would be considering legal non-conforming uses.

Don Schmidt questioned if the state allows the city to go as far as

3,000 feet apart in distance, why did the city not choose to go with the most restrictive distance of 3,000 feet.

Mr. Ranshaw stated that the state gives you the leeway of 0 to 3,000 feet to distance these facilities. He stated that when they took a look at the distancing they felt the distance of 3,000 feet was too restrictive. He stated that they tried to come up with a figure that was so restrictive that it severely limited the number of facilities that would be provided in the city, but still would provide for the dispersal of the facilities. He stated that this dispersal would not only help the neighborhoods but this also helps the people in the facilities. He stated that if they are trying to mainstream people back into society, it would not help to group all of the facilities together. He stated that court cases have said this and judges have upheld dispersal on the ruling that it is good for the people with the mental illness that they are trying to mainstream.

Don Schmidt questioned then if the staff was stating that the people in the facilities were going to have interaction with people in the neighborhood.

Mr. Ranshaw stated he felt that was one of the goals of the providers of the group facilities is to have some interaction.

Mr. Purcell stated that one of the things that the staff is trying to do is to go from the old ordinance. He stated that the old ordinance allowed one facility per block face. He stated that is generally about 400 feet. He stated that 1,000 feet really makes it more restrictive than what is currently allowed in the Zoning Ordinance. He stated that the staff concern was to not impact a certain neighborhood so that they would have all of these facilities. He stated that he did not feel that this was the last time that this issue would be before the Commission. He stated that this new federal "American's With Disabilities Act" has a number of things in it, one of the things that the federal law defines as a disability, is people who are recovering alcohol or drug abuse. He stated that he felt the issue maybe before the courts within the fairly new future. He stated that he felt this ADA was opening up a number of areas for potential litigation in terms of what is and what is not a disability and how they are viewed.

John Shoaff stated that he was of the understanding that West Central was the spur that started this amendment. He questioned if they had used West Central as a model for their ordinance.

Mr. Purcell stated that they did not try to do it on a given neighborhood. He stated that they figured it on what they felt was a reasonable distance and to avoid impacting a given neighborhood. He stated that it would vary, depending upon the type of neighborhood you have.

Robert Wright stated that he lived in the West Central Neighborhood

and applaud the efforts of the staff to address the issue. He stated that he felt it would best serve the goals of the facilities to have some dispersal, to allow access to other areas of the city.

John Shoaff requested that staff supply the Commission with the data that they used to come up with their recommendations.

The following people spoke to the text amendment.

Marta McCrady, Director of Hope House  
Dennis Lamount, Director of Freedom House  
Dick Katt, Executive Director of Washington House  
Representative from Park Center  
Paul Arnold, Psychologist  
Sally Ley, Executive Director Franciscan Center  
Ron Davenport, Development Director for the Washington House  
Virginia McCaskey, Park Center

- it was stated by the providers that people who are chemically addicted should not be defined, as is done by the state, as mentally ill
- the close proximity of the facilities is necessary to enable the facilities to share staff and equipment
- these facilities are not for profit organizations that work on limited budgets and spacing the facilities at 1,000 feet apart would add extra cost to their operation
- the people occupying these facilities are not using drugs or alcohol - they have come from an in-patient facility prior to be accepted into one of these facilities
- these facilities have proven through the years to be good neighbors
- without the transitional residences in the city it would be near impossible to accommodate the people who occupy these facilities
- the people who run these facilities are committed to the community and the city of Fort Wayne
- they are limited to certain neighborhoods due to the limited budget that they have - they have to be able to buy homes where they can afford them
- the limiting of 1 facility for every 1,000 feet would severely limit their program - they would request 2 facilities for every 1,000 feet

Robert Hutner questioned if the 1,000 feet between facilities is approved, could someone apply to the Board of Zoning Appeals to put one closer than a 1,000 feet.

Greg Purcell stated that they could but they would have to apply for a Use Variance and the criteria for proving a hardship for this type of use would have to be rather extraordinary.

Robert Wright questioned if the facilities that are grandfathered in would be a measuring point for the 1,000 foot rule.



Mr. Purcell stated that they would be.

There was no one else present who spoke in favor of or in opposition to the proposed amendment.

END OF THE SUMMARIZATION OF THE TESTIMONY FROM THE AUGUST PUBLIC HEARING

Jeff Hoeppner, 1301 Rockhill Street appeared before the Commission. Mr. Hoeppner stated that he was president of the Neighborhood Association. Mr. Hoeppner stated that the official position of the association is that they would like to see as strict an ordinance as possible. He stated that they want as much distance between the houses as possible. He stated that they understand they are proposing that it be 1,000 feet between houses and they do not want to see anything less than that. He stated that they agree that these houses are necessary to serve the needs of these individuals, but they feel that West Central has gotten its fair share of these facilities. He stated that they feel that if any more of the homes are allowed into the area it will cause a reduction in the property values in the area.

Steve Howell, 2214 Dodge Avenue appeared before the Commission. Mr. Howell stated that he worked at Lutheran Hospital in the Chemical Dependency Treatment Program. He stated that they have limited resources when it comes to where people can go once they have gone into treatment. He stated that the transitional living program benefits the Treatment Program and society a great deal. He stated that he felt that these homes provide a drug free environment for people to go to once they have finished their treatment at a hospital and it allow them to get more people into treatment by making more room in the hospital.

Jim Schaab, 823 Wilt Street appeared before the Commission. Mr. Schabb stated that they have nothing against Mr. Howell's position, they simply want these facilities to be located somewhere else as far as the saturation of homes in West Central.

John Shoaff questioned what is the problem that is created by having these homes in the West Central Neighborhood.

Mr. Schaab stated that, as an example, two years ago he was coming home and there was a young man from the facility across the street from his property lying naked in the snow, raving and causing damage to the houses in the area by tearing off the mailboxes. He stated it took two police cars to subdue the individual.

Robert Hutner stated that just to clarify the issue, he wanted the people to be aware that they were speaking either in favor of the ordinance, which would require that the facilities be spaced a minimum of at least 1,000 feet apart, or against that restriction only.

Mr. Schaab stated that they he was in favor of the ordinance.

John Garzelloni, 1133 Garden Street, appeared before the Commission. Mr. Garzelloni stated that 1,000 feet between houses will matter in protecting property values. He stated that in one case there is three homes in a row and they have a large gravel parking lot. He stated that he felt it destroyed their property values and destroys their neighborhood.

John Shoaff questioned if Mr. Garzelloni was stating that they needed more parking.

Mr. Garzelloni stated he felt that they did not belong in residential neighborhoods. He stated that in the case of the Hope House they have no parking except on the street. He stated that they have several AA meetings a week that require that the people attending park and take up 3 blocks. He stated that neighbors have no place to park.

Ruth Ann Sprunger, 5106 Indiana Avenue, Executive Director of Mental Health Association in Allen County, appeared before the Commission. Ms. Sprunger stated that she was speaking on behalf of a number of Mental Health Agencies that are supporting Hope House in its request. She stated that they would suggest that having two homes close together has some very distinct advantages, there is a possibility of collaboration of activities, there is a collaboration of staffing. She stated that there is a possibility of collaboration of meals and also some homes in some parts of the country, that have graduated facilities, where you stay at one residential home and then graduate as you progress in treatment. She stated that she heard the gentlemen speak about the mental patient who was out in the snow, she stated that as an agency who has taken care of many of those people who are on the street, they continually hear in their office "do something with those people, get them off the street, get the homeless off the street, get them out of my sight, put them somewhere". She stated that as a society we do not want to pay for more mental hospitals, we do not pay for more private hospitals, we don't want to put them in hospitals. She suggested that this is an opportunity for us as a society to do something with these people, to provide them with some decent, transitional living.

Robert Hutner questioned Ms. Sprunger as to what she thought was an alternative to the proposed 1,000 foot regulation.

Ms. Sprunger stated that she did not feel there is a great deal of an alternative. She stated that 1,000 feet or more, makes it more difficult to program.

Robert Hutner questioned what her recommendation for spacing would be.

Ms. Sprunger stated she would recommend the 1,000 feet.

Becky Yager, 1205 Garden Street, appeared before the Commission. Ms. Yager stated that the director of Hope House has stated that

there has never been any complaints about their facility, and that their facility blends into the neighborhood. Ms. Yager stated that she was there to state that was totally untrue. Ms. Yager stated that over the years she and her husband and neighbors have tolerated many things simply because they feared repercussions. She stated maybe not from the clients themselves, but after seeing the types of people who come and go, either visiting or attending a meeting, they fear for their safety and their children's safety. She stated that many of the people who visit the clients in the facilities are alcohol or drug abusers themselves. She stated that these people do not care who they offend in the neighborhood, because there is no connection, between them and anyone who is truly apart of the neighborhood. She stated that she was strongly in favor of the ordinance restricting one facility per 1,000 feet. She stated that the block of Garden Street has only 11 homes, Hope House is one of those 11, one rehab house out of 11 is enough. She stated that this ordinance is a much needed step in the direction of distributing these group homes throughout the city, instead of concentrating them in one given area.

There was an informal audience discussion at this point.

Donna Bangert, 1125 Garden Street, appeared before the Commission. Ms. Bangert stated that the house that is proposed for a second Hope House is right next door to her. She stated that she is of the understanding that they have already purchased the house, without having it approved. She questioned that if this new spacing rule of 1,000 feet goes through, will this house be grandfathered in because it has already been purchased.

Steve Ranshaw stated that if they have already made the purchase and they are beginning the operation, or they are just working on the procedural and organizational things to come to operation. He stated that he would say that they have already begun the operation of that home and that would fit under the grandfather clause.

Ms. Bangert stated that this is what they want to fight. She stated that they had no right to buy that home without the approval of the neighborhood.

Mr. Ranshaw stated that they had the right to purchase the home for the Hope House. He stated that it is classified currently as a residential use and until this ordinance is adopted it is treated as a residential use. He stated just the same as she (Ms. Bangert) has the right to buy a home in a residential neighborhood, they also have that right. He stated that there is no enforceable ordinance against this use at this time.

Ms. Bangert questioned if they were not changing the rule from 3,000 feet to 1,000 feet.

David Wright stated that the 3,000 feet comes up in the statute that gives the city the authority to regulate these homes. It says that they can require up to 3,000 foot distance between group

homes. He stated that the drafters of this particular ordinance chose not to style it to the amount of 3,000 feet but rather 1,000 feet. He stated that there is no ordinance presently on the books that regulates any of the homes.

Dan Miller, 7314 Burnsdale Drive, President of Freedom House appeared before the Commission. Mr. Miller stated that their home is located at the corner of Fox Avenue and Walnut Street. He stated that they would like to say that they have done a lot of good in this particular neighborhood. He stated that their neighbors are damn glad that they are there. He stated that they have taken homes that have been of lower value and the city would like to tear down and put money into them, with new roofs, new windows, air conditioning and fixed the houses up in a considerable fashion. He stated that if there were people there from their neighborhood association they would speak quite highly of them. He stated that unfortunately what the Commission is hearing, to some extent is true, and he felt to some extent, was exaggerated. He stated that not everything works smoothly. He stated that there will be people who will relapse, they can not prevent that. He stated that there are a lot of them who stay sober and come productive citizens. He stated that this is what they are trying to do. He stated that halfway houses in order to be successful need to be together as close as possible. He stated that he was totally against the ordinance of 1,000 feet, because there should be no ordinance of 1,000 feet. He stated that houses need to be side-by-side or as close to or across the street from one another as possible so that people can get together and become a close knit family. He stated that these facilities are needed in this community and more houses are needed, not less.

Al Hofer, 1212 Rockhill Street, appeared before the Commission. He stated he was in favor of the ordinance. He stated that he felt it was a compromise of sorts, neither side a zero foot nor 3,000 foot is perhaps possible. He stated that he felt the staff should be commended. He stated there are a number of ordinances to deal with, there are state and federal statutes to deal with and case law that have to be dealt with regarding this amendment. He stated that it is a good faith effort to deal with the problem.

Greg Purcell, Executive Director of Community & Economic Development appeared before the Commission. Mr. Purcell stated that he would like to commend the staff. He stated that he felt that Steve Ranshaw, Wayne O'Brien and Scott Cassingham did an excellent job on this amendment. He stated that what has been stated that evening were people coming at an issue from two different sides, but generally agreeing on the 1,000 feet being the right distance. He stated there was also some information from Virginia McCaskey of Park Center to the Commissioners that indicates that the state licensing board also has a 1,000 foot separation as part of their review. He stated that Steve Ranshaw has prepared additional information and an alternative to the original ordinance which he is going to present to the Commission.

Steve Ranshaw, Senior Planner with Community & Economic Development appeared before the Commission. Mr. Ranshaw stated that the additional information that the Commission has received was in response to some questions that arose from the first public hearing. He stated that the information was mainly just some further justification for the 1,000 foot separation. He stated that they have received a letter from Virginia McCaskey stating that the state licensing board requires the 1,000 foot separation. He stated that it would seem appropriate for the city of Fort Wayne to be consisted with the requirement of the state. He stated that the second item in the package was a group home regulation survey of other cities in Indiana. This was also in direct response to questions brought up at the first public hearing. He stated that they surveyed 4 cities, Indianapolis, Columbus, South Bend and Evansville. Two of them did not have any regulation at all, one has a 3,000 foot dispersal and Indianapolis does not regulate any facility other than those for the developmentally disabled or the mentally ill and they require a variance of use, which is very restrictive. He stated that the third item was just a mathematical breakdown of just what these dispersals would mean, numbers wise. A 3,000 foot dispersal would be an area of 649 acres, if you went 3,000 feet in each direction it would be 649 acres. He says that the 1,000 foot dispersal would be only a 72 acre circle. He stated that it then breaks down by stating that a 1,000 foot dispersal would, if perfectly spaced throughout the city, allow for 450 group homes. He stated that the last item is what Mr. Purcell alluded to, it is an alternative language to what has been proposed. He stated that they have slightly modified what was originally proposed by allowing this to set up 1,000 foot dispersal requirement, but then would allow a second residential facility for the mentally ill to locate within 1,000 feet, if it was approved by the Board of Zoning Appeals as a Contingent Use.

There was no one else present who spoke in favor of or in opposition to the proposed amendment.



RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 11, 1992 referred a proposed text amendment which proposed amendment was designated as Bill No. G-92-08-30; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on August 17, 1992 and September 21, 1992.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

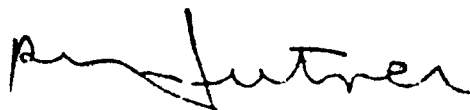
(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 28, 1992.

Certified and signed this  
29th day of September 1992.



---

Robert Hutner  
Secretary



## MEMORANDUM

---

TO: Plan Commission Members

FROM: Greg Purcell, Director, Community and Economic Development

DATE: August 14, 1992

SUBJECT: Zoning Ordinance Amendment Addressing Group Homes

### Background

An in-depth legal review of the current Zoning Ordinance language related to the regulation of group homes and half-way houses has revealed that the current regulations do not comply with state and federal law, or relevant case law. At that point, it was impossible for the City of Fort Wayne to enforce those sections of the ordinance deemed to be in non-compliance. Residents of the West Central Neighborhood in the City of Fort Wayne have voiced concerns pertaining to the proliferation of group home facilities in their neighborhood. These events have prompted the staff of the Division of Community and Economic Development, in cooperation with City legal staff, to draft the following amendment to the Zoning Ordinance.

### Proposal

The proposed amendment to the City of Fort Wayne's Zoning Ordinance has been drafted in compliance with the Indiana state statutes addressing the limits of regulation permitted for group residential facilities for the mentally ill, and group residential facilities for the developmentally disabled. State law prohibits the regulation of group residential facilities for the developmentally disabled as long as they are licensed by the state, and that they do not exceed eight (8) developmentally disabled individuals. State statute would permit a dispersal requirement for group residential facilities for the mentally ill with a maximum distance between like facilities being three thousand (3,000) feet measured from property lines. An analysis of this dispersal requirement for the City of Fort Wayne has resulted

in an appropriate distance of one thousand (1,000) feet between like facilities. This distance provides for a reasonable number of such facilities in the City while preventing the impact of a large number of facilities in any one neighborhood.

The proposed amendment also creates a third type of group home, defined as a Group Residential Facility, which would include those residential facilities with supervisory staff that do not satisfy the definitions of mentally ill or developmentally disabled. This type of group home would be permitted only after obtaining the approval of the Board of Zoning Appeals for a contingent use. The Board would then be able to analyze any potential negative impact the facility would have on surrounding properties, and would be able to deny an inappropriate location or approve the facility with conditions mitigating any potential negative impact.

### Recommendation

The authors of this amendment understand the concerns the City neighborhoods have concerning the proliferation of group facilities in small geographic areas. These concerns must be weighed against the rights of individuals to live where they wish regardless of handicap. The state laws are relatively clear and the state definitions and regulations have been incorporated in this amendment when possible to assure local ordinance compliance with state statute. This amendment provides for the regulation of these facilities while not placing an undue hardship on individuals with special needs. Based on these facts, the Plan Commission staff would recommend that this ordinance amendment be forwarded to the City Council with a recommendation of "Do Pass".

GP/SR/GB

The following paragraphs shall be deleted in their entirety and replaced with the attached language.

Section 33-3 Definitions

- (bb) Extended Group Home
- (ff) Half-way House
- (ll) Limited Group Home

Section 33-14 Permitted uses in Specific Districts

- (a) (5) Limited Group Home
- (b) (3) Limited Group Home
- (b) (4) Extended Group Home
- (b) (5) Half-way House
- (c) (8) Extended Group Home
- (c) (9) Half-way House

The following language shall replace the deleted paragraphs and shall be arranged in the order indicated by the section and paragraph notations preceding the text.

### Section 33-3 Definitions

(aaaa) Developmental Disability, shall mean a severe, chronic disability of an individual that:

- (1) Is attributable to a mental or physical impairment, or a combination of mental and physical impairment (other than a sole diagnosis of mental illness);
- (2) Is manifested before the individual is twenty-two (22) years of age;
- (3) Is likely to continue indefinitely;
- (4) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and
- (5) Results in substantial limitations in at least three (3) of the following:
  - (i) Self-Care
  - (ii) Receptive and expressive language
  - (iii) Learning
  - (iv) Mobility
  - (v) Self-direction
  - (vi) Capacity for independent living
  - (vii) Economic self-sufficiency.

(bbbb) Developmentally Disabled Individual, shall refer to an individual who has a developmental disability.

(cccc) Residential Facility for the Developmentally Disabled, shall be:

- (1) For not more than eight (8) developmentally disabled individuals, exclusive of supervisory staff, councilors or resident managers: and
- (2) Established under a program authorized as a Community Residential Program for Developmentally Disabled Individuals and licensed by the State of Indiana as set forth at IC 12-11-1.

(dddd) Mental Illness, shall mean a psychiatric disorder that:

- (1) Substantially disturbs an individual's thinking, feeling, or behavior; and
  - (2) Impairs the individual's ability to function.
- The term includes alcoholism, and addiction to narcotics or dangerous drugs.



(eeee) Mentally Ill Individual, shall mean an individual who:  
    (1) Has a psychiatric disorder that substantially  
        impairs the individual's mental health; and  
    (2) Requires care, treatment, training or detention:  
        (i) Because of the psychiatric disorder; or  
        (ii) For the welfare of the individual or others of  
            the community in which the individual resides.

(ffff) Residential Facility for the Mentally Ill, shall mean  
a residential facility for the care, treatment, training or  
detention of mentally ill individuals.

(gggg) Group Residential Facility, shall mean a residential  
facility for a group of individuals (who are not mentally ill  
or developmentally disabled) having full or part-time  
supervisory staff providing care, education, and  
participation in community activities, living in a district  
authorizing residential uses.

Section 33-14

(a) R1 District, One-Family Residence

(5) Residential Facility for the Developmentally Disabled, such facility shall be required to meet all other zoning requirements, ordinances and laws.

(9) Residential Facility for the Mentally Ill, such facility shall:

(a) NOT be located within one thousand (1,000) feet of another Residential Facility for the Mentally Ill, as measured between lot lines;

(b) meet all other zoning requirements, ordinances and laws.

(d) RA District and RB District, Residence.

(10) Residential Facility for the Developmentally Disabled, such facility shall be required to meet all other zoning requirements, ordinances and laws.

(11) Residential Facility for the Mentally Ill, such facility shall:

(a) NOT be located within one thousand (1,000) feet of another Residential Facility for the Mentally Ill, as measured between lot lines;

(b) meet all other zoning requirements, ordinances and laws.

Section 33-12

(a) Such permitted contingent uses are identified as follows:

(13) Group Residential Facility, provided such use will not constitute a nuisance because of number of residents, noise, vehicle traffic, parking or any other type of physical activity.



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 29, 1992

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-92-09-21

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
29th day of September 1992.

Robert Hutner  
Secretary

/pb

CC: File

# FACT SHEET

Z-92-09-21

BILL NUMBER

## Division of Community Development & Planning

**BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From B1B to B4

**DETAILS****Specific Location and/or Address**

1033 N Coliseum B1

**Reason for Project**

Mini-Warehouse Development

**Discussion (Including relationship to other Council actions)**  
21 September 1992 - Public Hearing

William Swift, 590 Lincoln Bank Tower, attorney for the petitioners appeared before the Commission. Mr. Swift stated that his clients were requesting the rezoning in order to bring this property in line with the current zoning on the rest of the Frank's Nursery property. He stated that they want to sell the property to a group for the purpose of erecting mini-warehouses. He stated that they have filed a request with the Board of Zoning Appeals for a Special Use permit for the use of the property for mini-warehouses in a B-4 District, pending the outcome of the rezoning request.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

28 September 1992 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents****Applicant(s)**Frank's Nursery & Crafts Inc  
City Department

Other

**Opponents****Groups or Individuals**

Basis of Opposition

**Staff  
Recommendation**☒ For ☐ Against

Reason Against

**Board or  
Commission  
Recommendation****By**☒ For ☐ Against  
☐ No Action Taken☐ For with revisions to conditions  
(See Details column for conditions)**CITY COUNCIL  
ACTIONS**  
(For Council  
use only)☐ Pass ☐ Other  
☐ Pass (as  
amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass

**DETAILS**

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

**POLICY/PROGRAM IMPACT**

<b>Policy or Program Change</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Operational Impact Assessment</b>	

(This space for further discussion)

**Project Start**

**Date** August 20, 1992

**Projected Completion or Occupancy**

**Date** September 29, 1992

**Fact Sheet Prepared by**  
Patricia Biancaniello

**Date** September 29, 1992

**Reviewed by**

**Date** SEPTEMBER 29, 1992

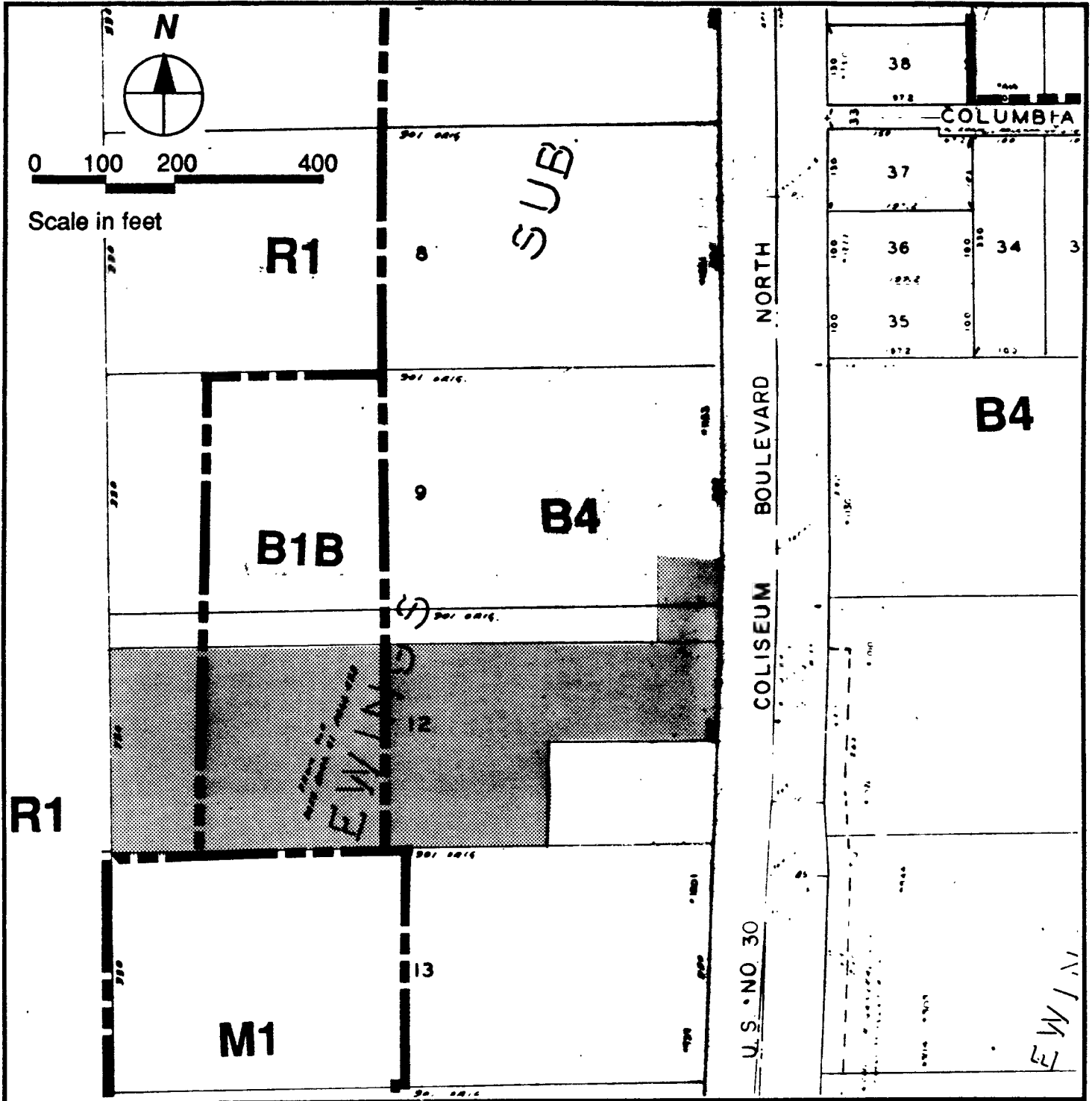
**Reference or Case Number**



# REZONING PETITION

## AREA MAP

CASE NO. #524



COUNCILMANIC DISTRICT NO. 2

Map No. R-10  
LW 8-24-92

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on September 22, 1992 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-92-09-21; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on September 21, 1992.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

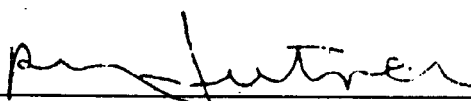
(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 28, 1992.

Certified and signed this  
29th day of September 1992.

  
\_\_\_\_\_  
Robert Hutner  
Secretary

**William Swift, attorney for Frank's Nursery & Crafts, Inc., requests a change of zone from B-1-B and R-1 to B-4.**

Location: 1100 Block Coliseum Blvd. North

Legal: See file

Land Area: Approximately 4.7 acres

Zoning: B-4, B-1-B and R-1

Surroundings:

North	B4/B1B/R1	Commercial/Open
South	B4/M-1	Commercial
East	B-4	Commercial
West	R-1	Cemetery

Reason for Request: Not stated on petition.

Neighborhood Assoc.: None

Comprehensive Plan: The general land use policies of the Comprehensive Plan state that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal of the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

Neighborhood Plan: No comment.

Landscape: No comment.

**Planning Staff Discussion:**

This site is located on the west side of Coliseum Blvd, south of Lake Avenue. The property is owned by Frank's Nursery and Crafts, Inc. who have a retail store at the front and north of this location.

This area has a rather inconsistent zoning pattern, with B-4, M-1 and B-1-B designations abutting an R-1 parcel. The R-1 parcel has been developed as a cemetery, and the B-1-B parcels appears to only be accessible from an ingress/egress easement. The requested B-4 zoning would be consistent with the zoning along the Coliseum frontage, and would allow a better potential for development.

The Comprehensive Plan indicates goals for this sector that address maintaining investments and preventing deterioration while supporting compatible development proposals. Staff believes the B-4 would address all of these goals, and would consistent with the overall development pattern for this area.

Recommendation: Do Pass for the following reasons:

- 1) Approval is consistent with the existing zoning and use pattern in the area.
- 2) Approval is consistent with the goals of the Comprehensive Plan.
- 3) Approval would increase the potential for site development.



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 28, 1992

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-92-08-09

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
28th day of September 1992.

---

Robert Hutner  
Secretary

/pb

CC: File



**FACT SHEET**

Z-92-08-09

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From B1B to M-1

**DETAILS****Specific Location and/or Address**

2215 Fillmore St

**Reason for Project**

Not Given

This petition was deferred at the request of the petitioner at the scheduled public hearing in August and then Withdrawn at the September public hearing. No testimony as to the nature of the reason for the project was ever given.

**Discussion (Including relationship to other Council actions)**August 17, 1992 - Public Hearing

Deferred to September 21, 1992 public hearing at the request of the petitioner.

September 21, 1992 - Public Hearing

There was no one present to speak in favor of the petition.

Steve Ranshaw, Senior Planner with Land Use Management, stated that the petitioner had requested that this petition be withdrawn. He stated that they had met with the petitioner and the petitioner is going to seek approval for their use from the Board of Zoning Appeals.

Motion was made and seconded to Withdraw the ordinance as requested.

Motion carried.

**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents****Applicant(s)**

Calvin Topper, Susan Topper &  
Dale Kohlmeier  
City Department

Other

**Opponents****Groups or Individuals**

Basis of Opposition

**Staff  
Recommendation**
☒ For ☐ Against

Reason Against

**Board or  
Commission  
Recommendation****By**
☐ For ☐ Against  
☒ No Action Taken

☐ For with revisions to conditions  
 (See Details column for conditions)
**CITY COUNCIL  
ACTIONS  
(For Council  
use only)**
☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass

**DETAILS**

**POLICY/PROGRAM IMPACT**

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

**Project Start**

**Date** 15 July 1992

**Projected Completion or Occupancy**

**Date** 24 September 1992

**Fact Sheet Prepared by**

**Date** 24 September 1992

Patricia Biancaniello

**Reviewed by**

**Date** 28 SEPTEMBER 1992

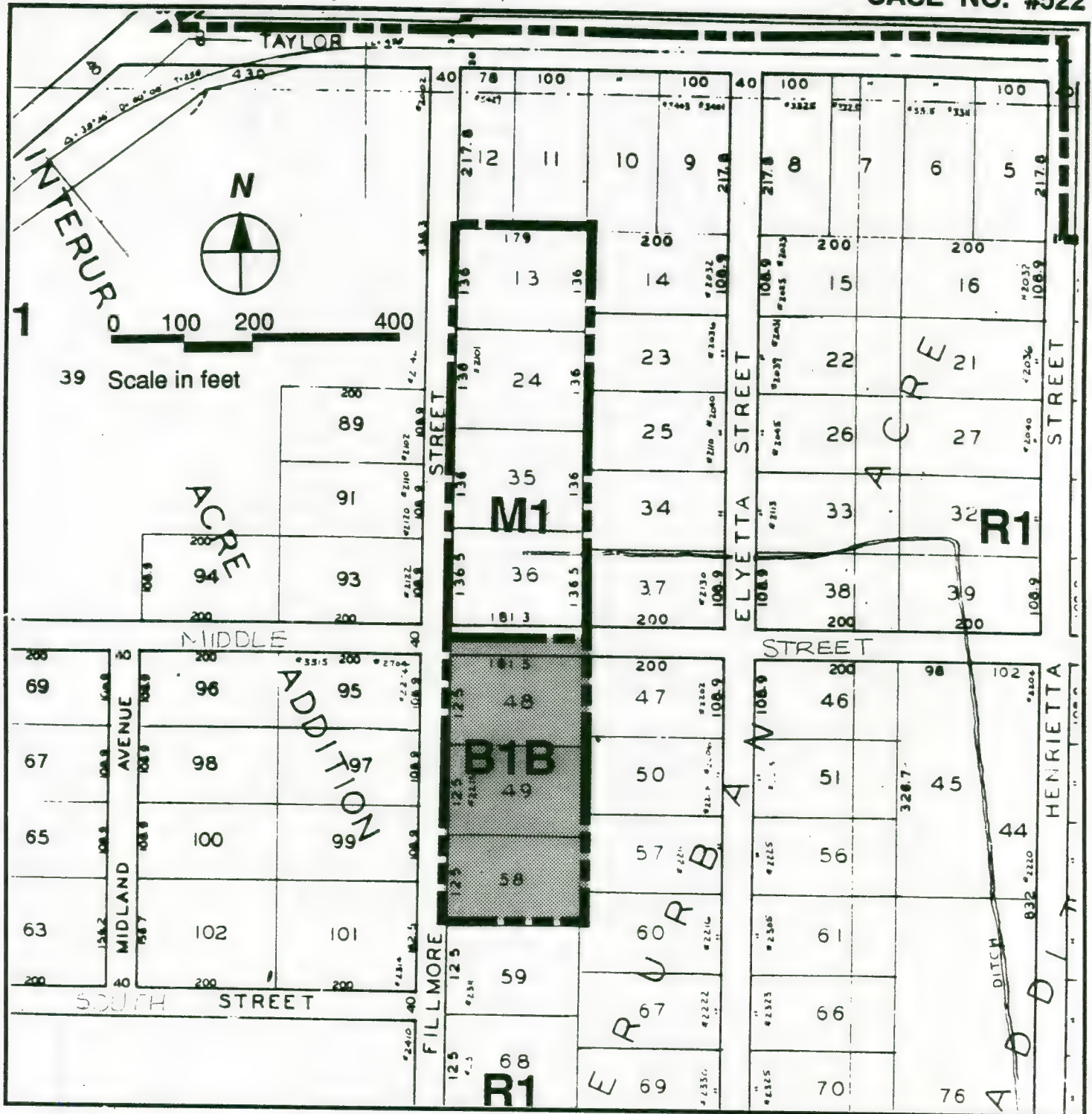
**Reference or Case Number**

*[Signature]*

# REZONING PETITION

## AREA MAP

CASE NO. #522



COUNCILMANIC DISTRICT NO. 4

Map No. H-3  
LW 7-24-92

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 11, 1992 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-92-08-09.

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on August 17, 1992.

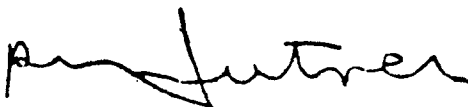
WHEREAS, a letter requesting WITHDRAWAL of the proposed ordinance has been filed with the City Plan Commission.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance be withdrawn in accordance with the written request.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 21, 1992.

Certified and signed this  
28th day of September 1992.



---

Robert Hutner  
Secretary

**Dale Kohlmeier, and Calvin and Susan Topper, request a change of zone from B-1-B to M-1.**

Location: 2215 Fillmore Street

Legal: See file

Land Area: Approximately 1.57 acres

Zoning: B-1-B

Surroundings:	North	M-1	Industrial
	South	R-1	Residential
	East	R-1	Residential
	West	R-1	Residential

Reason for Request: Not stated on petition.

Neighborhood Assoc.: None

Comprehensive Plan: The general land use policies of the comprehensive plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal of the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods. Industrial encroachment south of Middle Street lacks compatibility with the residential areas and should be discouraged.

Neighborhood Plan: No comment.

Landscape: Not really in character with surrounding area.

**Planning Staff Discussion:**

This site is located south of Taylor Street, west of Freeman Street, and north of Covington Road. It is located in a floodway fringe area.

The area is primarily composed of residential properties, with some open lots and a singular industrial use (Anthony Wayne Rehabilitation Center).

Staff is very concerned with a number of issues regarding this petition. It does not appear that Middle Street nor Fillmore Street are capable of bearing the type of traffic that is

normally associated with an industrial zoning. Our concern is with both the impacts on the surrounding residential uses, and on the street construction materials.

Approval would also establish a precedent, extending industrial zoning south of Middle Street. This would be inconsistent with the Comprehensive Plan, and could lead to deterioration of the existing housing stock in the area.

Finally, a concern is raised regarding approving more intense development within the floodway fringe. While ordinance allows provisions for such development, the Plan Commission needs to add the flood concern to their evaluation criteria. Is it appropriate to allow an intensification of uses in an area that is subject to floodplain restrictions?

Recommendation: Do Not Pass for the following reasons:

- 1) Approval is not consistent with the Comprehensive Plan.
- 2) Approval is not truly in character with the area.
- 3) Approval would allow an intensification of land uses in an area that may not have existing infrastructure capable of supporting it.
- 4) Approval would allow an intensification of uses in an area that is subject to floodplain restrictions.



# THE CITY OF FORT WAYNE



Paul Helmke  
Mayor

September 29, 1992

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
One Main Street  
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of dedicated rights-of-way.

The proposed ordinance is designated as:

Bill No. G-90-09-09

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
29th day of September 1992.

---

Robert Hutner  
Secretary

/pb

CC: File

**FACT SHEET**

G-90-09-09

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Alley Vacation Ordinance

**APPROVAL DEADLINE****REASON****DETAILS****Specific Location and/or Address**

Two (2) alleys located off of the Southwest corner of Lafayette & Pontiac Streets.

**Reason for Project**

Future construction of a Medical Office and Clinic

**Discussion (Including relationship to other Council actions)**

September 17, 1990 - Public Hearing

See Attached Minutes of Meeting

September 24, 1990 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation subject to the petitioners satisfying the following conditions:

1. Provide utility easements and/or relocations as necessary;
2. Provide for the access needs of both residents to the west, and for emergency vehicle service by granting an ingress/egress easement from Leith Street to the east/west alley. The location and geometrics must be approved by Traffic Engineering, and must be capable of serving the needs of emergency service vehicles.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did

**POSITIONS****RECOMMENDATIONS**

<b>Sponsor</b>	City Plan Commission
<b>Area Affected</b>	City Wide  Other Areas
<b>Applicants/ Proponents</b>	Applicant(s) J.R. Miller/w/Irmscher & Sons  City Department  Other
<b>Opponents</b>	Groups or Individuals Charles Vanyo, 309 E Leith St  <b>Basis of Opposition</b> -residents would be limited access to their properties & it would prohibit garbage pickup & snow removal in alley
<b>Staff Recommendation</b>	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against  Reason Against
<b>Board or Commission Recommendation</b>	By  <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
<b>CITY COUNCIL ACTIONS</b> (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass



# DETAILS

not vote. Motion Carried.

NOTE: This request has been held pending the conditions being satisfied.

## POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 16 August 1990

Projected Completion or Occupancy

Date 29 September 1992

Fact Sheet Prepared by

Patricia Biancaniello

Reviewed by

Date

5 OCTOBER 1992

Reference or Case Number

- b. Bill No. G-90-09-09 - Vacation Petition #447  
Alley vacations in the 2700 Block of Lafayette Street.

J.R. Miller, with Irmischer & Sons, appeared before the Commission. Mr. Miller stated that they are requesting the vacation in order to accommodate the building of a medical clinic by Dr. Stovall. He stated that the new construction, as proposed, will be constructed across the east/west alley. Mr. Miller stated that they intend to widened the street onto Leith Street to allow access back to the alleyway for all of the residents on the alley. Mr. Miller stated they will work with the Commission and city departments in order to accommodate access to the other properties on the alley. He stated that they have tentative approval from the Board of Zoning Appeals for a medical facility on this property and the vacating of the alleys is necessary to accommodate the new construction.

Charles Vanyo, 309 E Leith Street, appeared before the Commission in opposition to the proposed vacation. Mr. Vanyo submitted a petition signed by 35 area residents that were also opposed to the vacation. He stated that they feel that by vacating the alleys it will prohibit garbage pickup, cause limited access to residents to the rear of their properties and limit snow removal in the alley, it could also devalue their properties.

David Long questioned if Mr. Vanyo had been made aware that the staff has recommended that they give access to the alley from Leith Street.

Mr. Vanyo stated that he was unaware of that recommendation by staff.

In Rebuttal, Mr. Miller stated that they have tried to address the concerns as stated by Mr. Vanyo. He stated that the alley presently accesses onto Lafayette, which is a major traffic artery. He stated that they feel they will actually upgrade the access to the alley. He stated it will be lighted, better paved and have better radiuses.

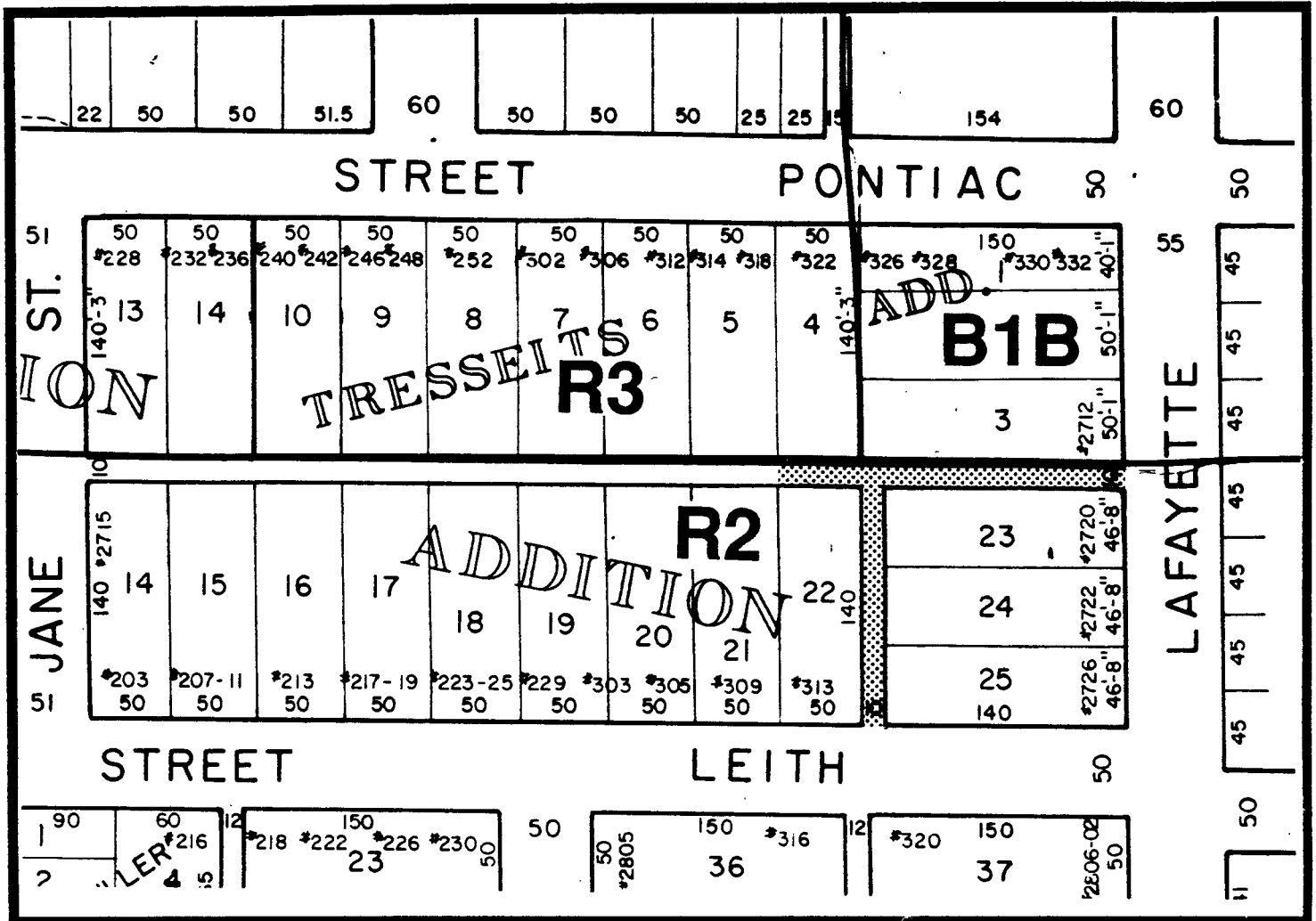
There was no one else present who wished to speak in favor of or in opposition to the proposed vacation.

**VACATION PETITION** #447

**A PETITION TO VACATE THE DESCRIBED PORTION OF PUBLIC ALLEY.**

**MAP NO. M-7**

**COUNCILMANIC DISTRICT NO. 1**



**ZONING:**

## ***R2 RESIDENTIAL DISTRICT***

**B1B LIMITED BUSINESS "B"**

### ***R3 RESIDENTIAL DISTRICT***

## LAND USE:

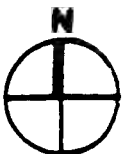
☐ **SINGLE FAMILY**

☐ **COMMERCIAL**

☐ **DUPLEX**

**SCALE: 1"=100'**

**DATE: 8-29-90**



J.R. Miller of Irmscher & Sons, Inc., along with Richard Stump of Moake-Park Associates, agent for the petitioners, request the vacation of two public alleys.

Location: In the 2700 block of Lafayette Street.

Legal: See file

Land Area: Approximately 3400 Sq. Ft. (0.78 acres)

Zoning: The alleys abut property zoned either B-1-B or R-2.

Surroundings:

North	B-1-B	Offices
South	R-2	Parking
East	B1B/R-2	Commercial/Parking
West	R-3/R-2	Residential

Reason for Request: Future construction of a Medical Office and Clinic on this site.

Neighborhood Assoc.: Williams Park Association

Neighborhood Plan: No comment.

Comprehensive Plan: No comment.

Landscape: No comment received.

**Planning Staff Discussion:**

Dr. Stovall currently has a medical office on a portion of this site. The future proposal for this site is the construction of a medical office and clinic, with the building located across the east/west alley. The petitioners are proposing an access from Leith Street to the west of the existing alley. Because of the residential property included in the proposed development, the proposed site plan will be under the jurisdiction of the Board of Zoning Appeals in connection with a contingent use petition.

Our concerns with this proposal centers around the continuation of access for residential development to the west, the needs of emergency vehicles, and the relocation of utilities as needed. If the petitioners can adequately satisfy those needs, we would have no objection to the vacation.

There are utilities currently present in the east/west alley which would need to be relocated, or to have new easements granted.

The area to the west along both Pontiac and Leith Streets has residential development, and therefore a need to use the alley

for access. The petitioner will need to provide for a continuation of access by granting and constructing a replacement alley or ingress/egress easement connecting to the east/west alley.

Traffic Engineering has advised us that approval will create a dead end alley with only one public access approach (on Jane Street). This will require traffic to back out onto the public right of way or to encroach on private property. They have also informed us that the Indiana Department of Transportation has proposed the closing of Leith Street at its west approach to Clinton Street. With that in mind, we feel that public safety demands provisions be made for safe traffic flow thru this area.

Recommendation: Conditional Approval, contingent upon the petitioners satisfying the following:

- 1) Provide utility easements and/or relocations as necessary;
- 2) Provide for the access needs of both the residents to the west, and for emergency vehicle service by granting an ingress/egress easement from Leith Street to the east/west alley. The location and geometrics must be approved by Traffic Engineering, and must be capable of serving the needs of emergency service vehicles.

## RESOLUTION

WHEREAS, J R MILLER/IRMSCHER & SONS INC., with RICHARD STUMP/MOAKE-PARK ASSOCIATES has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated alleys situated in Fort Wayne, Allen County, to-wit:

Beginning at the southeast corner of Lot #3 in Tresselt's Addition, 200.0 feet west along the right-of-way, through Lot #4 in Tresselt's Addition; turn 90° south 10.0 lineal feet to the northwest corner of Lot #22 in Colerick's Addition, then 200.0 lineal feet east along the right-of-way to the northeast corner of Lot #23 in Colerick's Addition, then north 10.0 lineal feet, again to the southeast corner of Lot #3 in Tresselt's Addition. Also, beginning at the southeast corner of Lot #22 in Colerick's Addition, 140.0 lineal feet north along the right-of-way, turn 90° east to the northwest corner of Lot #23 in Colerick's Addition, back south 140.0 feet along Lots #23, and #24 to the southwest corner of Lot #25, all in Colerick's Addition, turn 90° west, then 10.0 lineal feet back to the southeast corner of Lot #22 in Colerick's Addition

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on September 17, 1990 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated alleys.

WHEREAS, said vacation of dedicated alleys has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated alleys hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated alleys hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated alleys or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated alleys in Allen County, Indiana.


STATE OF INDIANA) ) SS:  
COUNTY OF ALLEN )

I, Robert Hutner, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, September 26, 1991 and as the same appears of record

in the official records of said Plan Commission.

DATED THIS 29th DAY OF September 1992

FORT WAYNE CITY PLAN COMMISSION

  
\_\_\_\_\_  
Robert Huthner  
Secretary

RESOLUTION 80-55-20

WHEREAS, J R MILLER/IRMSCHER & SONS INC., with RICHARD STUMP/MOAKE-PARK ASSOCIATES has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated alleys situated in Fort Wayne, Allen County, to-wit:

Beginning at the southeast corner of Lot #3 in Tresselt's Addition, 200.0 feet west along the right-of-way, through Lot #4 in Tresselt's Addition; turn 90° south 10.0 lineal feet to the northwest corner of Lot #22 in Colerick's Addition, then 200.0 lineal feet east along the right-of-way to the northeast corner of Lot #23 in Colerick's Addition, then north 10.0 lineal feet, again to the southeast corner of Lot #3 in Tresselt's Addition. Also, beginning at the southeast corner of Lot #22 in Colerick's Addition, 140.0 lineal feet north along the right-of-way, turn 90° east to the northwest corner of Lot #23 in Colerick's Addition, back south 140.0 feet along Lots #23, and #24 to the southwest corner of Lot #25, all in Colerick's Addition, turn 90° west, then 10.0 lineal feet back to the southeast corner of Lot #22 in Colerick's Addition

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated alleys have been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated alleys hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated alleys hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated alleys or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN )


I, CHARLES E. LAYTON, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held

SEPTEMBER 30, 1992 and as same appears of record in the official records of the Board of Public Works.

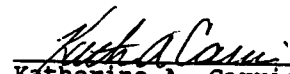
DATED THIS 30 DAY OF SEPTEMBER 1992

FORT WAYNE BOARD OF PUBLIC WORKS






Charles E. Layton  
Director of Public Works



Katherine A. Carrier  
Member, Board of Public Works



C. James Owen  
Member, Board of Public Works

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 13th day of October, 19 92, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 16th day of October, 19 92.

Sandra E. Kennedy  
City Clerk